IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12674 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

HN VAGHELA

Versus

ACCOUNTANT GENERAL

Appearance:

MRS NISHA M PARIKH for Petitioner

MS DAWAWALA for Respondent No.1

MS MANISHA LAVKUMAR for Respondent No.2, 3

CORAM : MR.JUSTICE M.S.SHAH

Date of Order: 12/04/2001

ORAL JUDGEMENT

Rule. Ms.Dawawala for Respondent No.1 and Ms.Manisha Lavkumar waives service of rule for the respondents.

2. In this petition under Article 226 of the Constitution, a retired Police Inspector has prayed for a direction to the Accountant General to issue a fresh authority slip for releasing Provident Fund amount of Rs.1,81,988/- and also for a direction to respondent No.2 to pay the gratuity and other retiral benefits from 30th June, 2000 alongwith interest thereon and also compensatory costs.

3. In response to the notice issued by this Court, an affidavit-in-reply is filed on behalf of Respondent no.3 stating that the amount of Rs.1,93,392 has been paid to the petitioner vide Cheque No.111274 on 13th February, 2001 in presence of the Police Inspector, Mahesana Railway Police Station on 24/02/2001 and nothing remains to be done in this regard. In the affidavit-in-reply, a demand is raised regarding the liability to pay market rent with effect from 1/9/2000 on the ground that eventhough the petitioner retired on 30/6/2000, the petitioner continued to retain the Government Quarters even beyond 31-8-2000; the petitioner could not have had the concessional rent for more than two months. The petitioner has, therefore, filed Civil Application No.2712 of 2001 praying for appropriate direction in this regard. The petitioner has by now already handed over the quarters to the authorities.

4. Having regard to the facts that for no fault of the petitioner, the authority Slip for the Provident Fund was misplaced by the authorities resulting into delay on their part in releasing Provident Fund amount of the petitioner which caused some delay in the petitioner getting suitable accommodation for himself and his family, and also considering the fact that the petitioner is suffering from paralysis, it will be just and proper to direct the authorities not to recover any rent from the petitioner in excess of the concessional rent from the date of his retirement till the date he handed over the quarters to the authorities.

5. It is further directed that if the amount of Gratuity and other retiral benefits are not paid to the petitioner, respondent No.2 shall pay the same to the petitioner within three months from today.

6. The petition is accordingly disposed of in terms of aforesaid directions. Rule is accordingly made absolute to the above extent.

7. Liberty to the petitioner to revive the petition

in case of any difficulty.

8. This petition as well as Civil Application are accordingly disposed of.

(M.S. Shah, J)
'Bhavesh'